

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNEY DEMETRICE GUNN,

Plaintiff,

No. 11-CV-13058

vs.

Hon. Gerald E. Rosen

PEOPLE OF THE STATE OF
MICHIGAN,

Defendant(s).

/

ORDER OF SUMMARY DISMISSAL

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on July 18, 2011

PRESENT: Honorable Gerald E. Rosen
United States District Chief Judge

Plaintiff Kenney Demetrice Gunn has filed a *pro se* complaint against the “People of the State of Michigan” in which he complains that he was convicted in Wayne Count Circuit Court for carrying a concealed weapon in violation of his Second Amendment right to bear arms. Plaintiff was granted permission to proceed with this action *in forma pauperis*, without prepayment of the filing fee under 28 U.S.C. § 1915. After careful consideration, the Court dismisses Plaintiff’s complaint pursuant to 28 U.S.C. § 1915(e)(2).

Complaints filed *in forma pauperis* are subject to the screening requirements of 28 U.S.C. § 1915(e)(2). *Brown v. Burgery*, 207 F.3d 863, 866 (6th Cir. 2000). Section

1915(e)(2) requires district courts to screen and to dismiss complaints that are frivolous, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief.

Having reviewed Plaintiff Gunn's complaint in this action, the Court concludes that the complaint fails to state a claim upon which relief may be granted.

Plaintiff was convicted in 2008 by a Wayne County Circuit Court jury for carrying a concealed weapon in a motor vehicle in violation of Michigan law. The trial court thereafter sentenced him to serve probation for one year. Plaintiff appealed his conviction to the Michigan Court of Appeals, and in November 2010, the Court of Appeals affirmed. The Michigan Supreme Court denied leave to appeal on March 29, 2011 and denied reconsideration of that decision on June 28, 2011.

Plaintiff thereafter filed his Complaint in this court asking this Court to dismiss the State's criminal case against him and order his gun rights reinstated.

Central to our system of justice is the general rule that state court determinations are not subject to appellate review by Article III federal courts. *See Atlantic Coast Line R. Co. v. Brotherhood of Locomotive Engineers*, 398 U.S. 281, 287, 90 S.Ct. 1739, 26 L.Ed.2d 234 (1970) "Proceedings in state courts should normally be allowed to continue unimpaired by intervention of the lower federal courts, with relief from error, if any, through the state appellate courts and ultimately [the Supreme] Court." *Id.* Indeed, far from exercising appellate review of state court decisions, federal courts are statutorily required to give preclusive effect to those judgments under the Full Faith and Credit Act,

28 U.S.C § 1738. This statute makes no exception for appeal rights to Article III federal courts.

The Michigan Supreme Court having affirmed Plaintiff Gunn's conviction, his only recourse is to the United States Supreme Court. *Atlantic Coast Line, supra*. This Court has no authority to overturn the state courts' decisions.

For all of the foregoing reasons, the Court finds that Plaintiff has failed to state a claim upon which relief can be granted. Therefore,

IT IS HEREBY ORDERED that Plaintiff's *ifp* complaint is hereby DISMISSED, pursuant to 28 U.S.C. § 1915(e)(2).

IT IS FURTHER ORDERED that Plaintiff's Application for Appointment of Counsel is DENIED as moot.

IT IS FURTHER ORDERED that any appeal from this order would be frivolous and not in good faith. Therefore, leave to appeal *in forma pauperis* will be DENIED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: July 18, 2011

I hereby certify that a copy of the foregoing document was served upon Kenney Demetrice Gunn, 16738 Woodingham Drive, Detroit, MI 48221 on July 18, 2011, by ordinary mail.

s/Ruth A. Gunther
Case Manager